

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ESLAM HASSAN,

Plaintiff,

-against-

CAPTAIN JOHN DOE, et al.,

Defendant.
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USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 12/12/2019

19-cv-10208 (VSB)

ORDER OF SERVICE

VERNON S. BRODERICK, United States District Judge:

Plaintiff, currently incarcerated at Marcy Correctional Facility, brings this *pro se* action under 42 U.S.C. § 1983. Plaintiff alleges that on October 27, 2016, Defendants used excessive force against him and were deliberately indifferent to his serious medical needs while he was detained at the Otis Bantum Correctional Center (OBCC) on Rikers Island. He names as Defendants the City of New York, OBCC Warden Kenneth Stukes, and various John and Jane Does.

Plaintiff filed his complaint on October 31, 2019. (Doc. 1.) On the same day, he also filed a request to proceed *in forma pauperis*¹, accompanied by a prisoner authorization form, which Chief Judge Colleen McMahon granted on November 5, 2019. (Doc. 5.) The case was then assigned to me, and on November 6, 2019, I issued an Order of Service that, among other things, requested that the City of New York and Stukes waive service and directed the New York City Law Department to identify the Doe defendants, including: (1) the Captain and four John

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed *in forma pauperis*. See 28 U.S.C. § 1915(b)(1).

Does correction officers involved with Plaintiff's strip search at OBCC on October 27, 2016, between 6:00 – 11:00 p.m.; and (2) the John Doe doctor and Jane Doe nurse who had a medical visit with Plaintiff at OBCC on October 27, 2016, between 9:30 p.m. – midnight.

The Order of Service was mailed to the New York City Law Department and Defendant Stukes filed a waiver of service on November 19, 2019. (Doc. 9.) As of the date of this order, neither the City of New York nor Stukes has answered, appeared, or consented to service via ECF.

Plaintiff subsequently filed an amended complaint, received December 5, 2019, and docketed on December 9, 2019. (Doc. 10.) Plaintiff refers to and appears to incorporate his initial complaint into his amended complaint, and adds no new defendants. However, he lists once again all the Doe defendants, each accompanied by the address of the correctional facility at which Plaintiff believes they should be served.

Plaintiff is advised that the United States Marshals Service will not be able to effect service of the summons and complaint on unnamed Doe Defendants. *See, e.g., Campbell v. Sposato*, No. 15-CV-00871 SJF GRB, 2015 WL 1930180, at *4 (E.D.N.Y. Apr. 28, 2015). Plaintiff is further advised that pursuant to my November 6, 2019, Order of Service, the New York City Law Department has been directed to identify the Doe Defendants and are to provide Plaintiff with this information by January 6, 2020. Within thirty days after he receives that information, Plaintiff is to file an amended complaint providing the true identities of the Doe Defendants, using the attached amended complaint form. He is advised that such amended complaint will replace all prior pleadings; it will not supplement them. After the amended complaint has been filed, I will screen it, and, if appropriate and necessary, issue an order asking the named correction defendants to waive service.

Accordingly, it is hereby:

ORDERED that until further order of this Court, the operative pleading in this matter shall be Plaintiff's complaint, (Doc. 1), and his amended complaint, (Doc. 10), taken together.

IT IS FURTHER ORDERED that the City of New York and Defendant Kenneth Stukes are requested to waive service of the amended complaint.

IT IS FURTHER ORDERED that the Clerk of Court is directed to electronically notify the New York City Department of Correction and the City of New York of this order, and to mail a copy of this order and the complaint to the New York City Law Department at: 100 Church Street, New York, New York 10007.

IT IS FURTHER ORDERED that the Clerk of Court is directed to mail a copy of this Order to the pro se Plaintiff.

SO ORDERED.

Dated: December 12, 2019
New York, New York


Vernon S. Broderick
United States District Judge